

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	0

MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred House Bill 1359, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 6, between lines 4 and 5, begin a new line blocked left and
- 2 insert:
- 3 **"A determination by the director under this paragraph must be in**
- 4 **writing and shall be delivered to all parties to the transaction.**
- 5 **IC 4-21.5-3 applies to a determination made under this**
- 6 **paragraph."**
- 7 Page 6, line 27, delete "creditor's agent" and insert "**person acting**
- 8 **on behalf of the creditor"**.
- 9 Page 6, line 28, delete "creditor's agent" and insert "**person acting**
- 10 **on behalf of the creditor"**.
- 11 Page 7, line 24, delete "creditor's agent" and insert "**person acting**
- 12 **on behalf of the creditor"**.
- 13 Page 7, line 26, delete "creditor's" and insert "**person acting on**
- 14 **behalf of the creditor"**.
- 15 Page 7, line 27, delete "agent".

- 1 Page 7, line 29, delete "creditor's agent" and insert "**person acting**
2 **on behalf of the creditor**".
- 3 Page 8, line 4, delete "creditor's agent" and insert "**person acting on**
4 **behalf of the creditor**".
- 5 Page 8, line 28, delete "creditor's agent" and insert "**person acting**
6 **on behalf of the creditor**".
- 7 Page 10, line 19, strike "or".
- 8 Page 10, line 20, delete "." and insert ", **a joint venture, an**
9 **unincorporated organization, or any other entity, however**
10 **organized**".
- 11 Page 10, line 24, after "or" reset in roman "an".
- 12 Page 10, line 24, delete "any".
- 13 Page 10, line 24, after "and" insert "**or**".
- 14 Page 10, line 24, after "and" reset in roman "an".
- 15 Page 10, line 25, rest in roman "organization".
- 16 Page 10, line 25, delete "sole proprietorship, partnership, trust, joint
17 venture,".
- 18 Page 10, delete lines 26 through 27.
- 19 Page 12, line 6, delete "providing property tax forms (IC
20 24-4.5-3-701)",.
- 21 Page 12, between lines 10 and 11, begin a new paragraph and insert:
22 "SECTION 6. IC 24-4.5-3-402, AS AMENDED BY P.L.217-2007,
23 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2008]: Sec. 402. (1) **This section does not apply to a first**
25 **lien mortgage transaction.**
- 26 **(2)** Except as provided in IC 24-9-4-3 with respect to a high cost
27 home loan (as defined in IC 24-9-2-8), with respect to a consumer loan,
28 other than one pursuant to a revolving loan account or one on which
29 only loan finance charges are payable prior to the time that the final
30 scheduled payment is due, if any scheduled payment is more than twice
31 as large as the average of earlier scheduled payments, the debtor has
32 the right to refinance the amount of that payment at the time it is due
33 without penalty. The terms of the refinancing shall be no less favorable
34 to the debtor than the terms of the original loan. This section does not
35 apply to the extent that the payment schedule is adjusted to the seasonal
36 or irregular income of the debtor.
- 37 ~~(2)~~ **(3)** For the purposes of this section, "terms of the refinancing"
38 means:

(a) in the case of a fixed-rate consumer loan, the individual payment amounts, the charges as a result of default by the debtor, and the rate of the loan finance charge; and

(b) in the case of a variable rate consumer loan, the method used to determine the individual payment amounts, the charges as a result of default by the debtor, the method used to determine the rate of the loan finance charge, the circumstances under which the rate of the loan finance charge may increase, and any limitations on the increase in the rate of the loan finance charge.

~~(3)~~ **(4)** If a consumer loan is made under the authority of the Alternative Mortgage Transaction Parity Act (12 U.S.C. 3802 et seq.), the note evidencing the mortgage must contain a reference to the applicable federal law."

Page 25, delete lines 22 through 31.

Page 26, line 4, delete "means:" and insert "**means an individual consumer, or the individual's legal representative, who obtains or has obtained from the person a financial:**

(1) product; or

(2) service;

that is to be used primarily for personal, family, or household purposes. The term does not include an affiliate of the person."

Page 26, delete lines 5 through 12.

Page 32, line 33, after "not" insert "**create a substantial likelihood of misleading the public by implying that the person, firm, limited liability company, or corporation is a state or federally chartered bank or savings bank."**

Page 32, delete lines 34 through 37.

Page 80, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 75. IC 28-11-5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 10. (a) Subject to subsection (g), a financial institution subject to this chapter may:**

(1) be organized as a limited liability company;

(2) convert to a limited liability company;

(3) merge with or into a limited liability company;

under the laws of Indiana or the United States, including any rules or regulations adopted or promulgated under the laws of Indiana or the United States.

1 **(b) A bank organized as a limited liability company is subject to:**

2 **(1) IC 23-18; and**

3 **(2) this title.**

4 **If a provision of IC 23-18 conflicts with a provision of this title or**
5 **with any rule of the department, the provision of this title or the**
6 **rule the department controls.**

7 **(c) Any filing required to be made under IC 23-18 shall be made**
8 **in the same manner as for a bank that is organizing or is organized**
9 **in stock form.**

10 **(d) The department may prescribe any requirements for:**

11 **(1) the articles of organization; and**

12 **(2) the operating agreement;**

13 **of a financial institution that is organized and operates as a limited**
14 **liability company.**

15 **(e) The department has the exclusive authority under this title**
16 **to regulate a financial institution organized as a limited liability**
17 **company. A financial institution that is a limited liability company**
18 **is subject to the department's authority in the same manner as a**
19 **bank that is organized in stock form.**

20 **(f) A financial institution that is a limited liability company is**
21 **subject to the provisions of this title that apply to banks, except for**
22 **the provisions concerning corporate governance (IC 28-13), in the**
23 **same manner as a financial institution that is organized in stock**
24 **form, subject to the following:**

25 **(1) In the case of a manager managed limited liability**
26 **company, "director" means a manager of the limited liability**
27 **company.**

28 **(2) In the case of a member managed limited liability**
29 **company, "director" means a member of the limited liability**
30 **company.**

31 **(g) A financial institution may not:**

32 **(1) organize as;**

33 **(2) convert to; or**

34 **(3) merge with or into;**

1 **a limited liability company without the prior approval of the**
2 **department under this title.".**

3 Renumber all SECTIONS consecutively.
 (Reference is to HB 1359 as introduced.)

and when so amended that said bill do pass.

Representative Bardon